



February 3, 2026

Hon. Renee Erickson , Chair
Senate Education Committee
State Capitol
Topeka, KS

SUBJECT: SB 419

Dear Chairman Erickson & Members of the Committee:

My name is Lance Kinzer, and I am the Policy Director for 1st Amendment Partnership where we are privileged to work with some of the nation’s largest faith communities with respect to their common commitment to First Amendment freedoms.

While supportive of SB 419 in general, I will focus my comments on Sec. 2 of the bill related to student associations. **Since 2016 Kansas has protected religious student associations at public postsecondary educational associations from unjust viewpoint discrimination. That same law (K.S.A, 60-5311 et seq.) also preserves the right of these groups to choose leaders who share the association’s beliefs and agree to live accordingly. As discussed in more detail below, 21 total states have passed such law. But unlike KS, most of them extend protections to all belief based student associations; regardless of whether or not they are religious. SB 419 would amend current KS law to do the same here.**

Across the country, public universities have attempted to prohibit student organizations from requiring that students who wish to lead a student club actually share that club’s beliefs. Universities have almost exclusively enforced such limitations against belief-based groups, but not against other groups with selective leadership criteria, like sororities and fraternities. Unfortunately, as happened in nearby Iowa before they passed a protective statute, this often results in divisive and expensive litigation between students and their own universities. Indeed, in Iowa the taxpayers ended up bearing the cost of an almost \$2 million dollar judgement due to discrimination against faith-based groups by the University of Iowa.¹

¹ <https://www.becketlaw.org/case/blinc-v-university-iowa/>;
<https://www.becketlaw.org/case/intervarsity-christian-fellowship-v-university-iowa/>

In that instance the United States Court of Appeal for the Eight Circuit ruled in favor of the student organizations because: “Employees of the University of Iowa targeted religious student organizations...” and because, “There is no dispute that the University of Iowa created a limited public forum by granting RSOs official recognition and access to a variety of benefits. See *BLinC II*, 991 F.3d at 981. And when a university does, it may restrict access to that limited public forum so long as the “access barrier [is] reasonable and viewpoint neutral.” *Martinez*, 561 U.S. at 679. “If a state university creates a limited public forum for speech, it may not ‘discriminate against speech on the basis of its viewpoint.’” *Gerlich*, 861 F.3d at 704–05.” *InterVarsity Christian Fellowship/USA v. University of Iowa*, No. 19-3389 (8th Cir. 2021).²

Even when student groups win in court, much of the harm to the educational experience of the impacted students is already done. No judicial remedy can adequately address the harms that universities inflict when they target student organizations, and thus their members, based upon their religious beliefs. HB 875 is designed to prevent such litigation by providing a clear legal standard that simply preserves the right of belief-based student groups to choose leaders who agree with their purpose and mission.

It is commonplace for belief-based organizations to require that their leaders affirm and live consistently with the principles around which the group was formed. For decades, the right of student organizations to do just this was clear as a matter of constitutional law. A long line of United States Supreme Court cases held: that student groups can’t be denied recognition by a public university merely because of their beliefs (*Healy v. James*, 1972)³; that belief-based student groups must be provided access to facilities under the same standards as other groups (*Widmar v. Vincent*, 1981), and; that student activity fee funds cannot be withheld from a group merely because they promote or manifest a particular belief system (*Rosenberger v. University of Virginia*, 1995).

Unfortunately, in more recent years many universities have attempted to take advantage of an ambiguity in the case law created by another US Supreme Court case, *Christian Legal Society v. Martinez*, (2010). That case dealt with the very uncommon situation where a university adopts a policy that says student groups cannot have any standards whatsoever for who may serve as their leaders. For obvious reasons, such a standard is unworkable and so almost no university has adopted and applied a true “all-comers” policy. But attempts by universities to expand the scope of *Martinez*, have resulted in needless litigation that harms the very students that universities exist to serve. Students at Kansas public universities should never be forced to litigate against their own schools in order to exercise basic constitutional rights.

Fortunately, the *Martinez* case itself was clear that universities and state legislatures are free to adopt policies that safeguard the right of belief-based student organizations to choose leaders who agree with the group’s mission and beliefs. **As noted above, twenty one states (including KS in 2016) have already passed laws that provide this kind of protection to religious student associations. But, unlike KS, the majority of these states also extend similar protection to other**

² https://becketnewsite.s3.amazonaws.com/2021-07-16_IVCF-Iowa_Opinion.pdf

non-religious, belief based, groups.³ Kansas should make the modest change proposed by SB 419, to ensure that other belief based student groups enjoy the same protections already afforded to religious student associations under Kansas law.

I'll close by noting that **support for such legislation has been increasingly bi-partisan. Indeed, last year similar legislation passed with significant bi-partisan support in Utah. The year before, in New Hampshire a bill with similar protections passed with unanimous support in the State Senate, and with significant bi-partisan support in the House. In 2022 Indiana passed similar protective legislation with unanimous support in both legislative chambers. Moreover, Louisiana Governor John Bell Edwards (D), signed such protections into law in 2018.**

By creating a clear standard, SB 419 promotes the important goal of pluralism, avoids needless litigation, and makes it certain that university administrators cannot decide who is entitled to recognition as a student organization based upon which beliefs those administrators favor or disfavor.

Respectfully,
Lance Y. Kinzer
Director of Policy & Government Relations

1st Amendment Partnership

³ AZ (A.R.S. 15-1863; VA (V.C.A. 23-9.2:12); NC (N.C.G.S.A. 115D-20.2); KY (K.R.S.A 164.348(2)(h); LA (LSA.RS. 17:3399.33); AR (A.C.A 6-60-1006); IA (I.C. 261H.3(3); SD (S.D.C. 13-53-52); AL (A.C. 16-68-3); ND (N.D.C. 15-10.4-02h); IN (I.C. 21-39-8-1); WV (WV.C. 18B-20-5); NH (NH.R.S 188-J:2); UT (U.C. 53B-27-101); MO (M.RS. 173.1555).